

UNITED STATES DISTRICT COURT:
DISTRICT OF MASSACHUSETTS:

FELIPE OTEZE FOWLKES,
PLAINTIFF,

VS.

KATHLEEN M. DENNEHY, ET AL.,
DEFENDANTS.

FILED
IN CLERKS OFFICE

2006 NOV -2 A 11: 44

05-CV-1 DISTRICT COURT
DISTRICT OF MASS.

PROOF OF SERVICE

PLAINTIFF, FELIPE OTEZE FOWLKES, PRO SE, PURSUANT TO COURT'S AUGUST 17, 2006, ORDER, do hereby file "PROOF OF SERVICE" OF THE OPERATIVE COMPLAINT IN THIS CIVIL ACTION UPON THE DEFENDANTS, JOHN MARSHALL, TIMOTHY HALL AND "MR. ANDERSON" AKA SCOTT ANDERSON. AS PROOF, THE PLAINTIFF HAS ANNEXED HERETO, THE U.S. MARSHAL 285 RETURN RECEIPT FORMS ON DEFENDANTS JOHN MARSHALL AND TIMOTHY HALL. AS PROOF OF SERVICE ON "MR. ANDERSON", THE PLAINTIFF HAS ANNEXED HERETO A COPY OF THE JULY 31, 2006, CERTIFICATE OF SERVICE, ON THE U.S. MARSHAL SERVICE ATTESTING THAT PLAINTIFF PROVIDED THE U.S. MARSHAL WITH THE COMPLAINT, SUMMONSES AND ALL NECESSARY PAPERWORK REQUIRED BY THE U.S. MARSHAL FOR SERVICE OF PROCESS ON ALL THE DEFENDANTS INCLUDING "MR. ANDERSON" AKA SCOTT ANDERSON. HOWEVER, SINCE THE PLAINTIFF NEVER RECEIVED A COPY OF THE U.S. MARSHAL 285 RETURN RECEIPT FORM ON DEFENDANT "MR. ANDERSON", THE PLAINTIFF MADE AN OCTOBER 3, 2006, WRITTEN

REQUEST TO the U.S. MARSHAL Service FOR A COPY OF THE FORM OR AN ACKNOWLEDGEMENT THAT SERVICE ON ANDERSON WAS MADE. A COPY OF THE PLAINTIFF'S OCTOBER 3, 2006, REQUEST TO THE U.S. MARSHAL Service IS ENCLOSED AND ANNEXED HERETO.


PLAINTIFF RECEIVED A RESPONSE FROM THE U.S. MARSHAL Service WHICH WAS DATED OCTOBER 18, 2006, BY U.S. POSTAL Service ACCORDING TO THE ENVELOPE WHICH HAD BEEN OPENED BY PRISON OFFICIALS PRIOR TO DELIVERY TO PLAINTIFF. ALTHOUGH THE ILLEGALLY OPENED LEGAL MAIL ENVELOPE FROM THE U.S. MARSHAL Service CONTAINED THE U.S. MARSHAL 285 RETURN RECEIPT FORMS ON DEFENDANTS JOHN MARSHALL AND TIMOTHY HALL, IT DID NOT CONTAIN THE U.S. MARSHAL 285 RETURN RECEIPT FORM ON DEFENDANT "MR. ANDERSON" AKA SCOTT ANDERSON, WHICH IF ENCLOSED, WAS TAKEN BY PRISON OFFICIALS.

THEREFORE, PLAINTIFF FILED AN INMATE GRIEVANCE DATED OCTOBER 19, 2006, A COPY OF WHICH IS ANNEXED HERETO, COMPLAINING ABOUT THE ILLEGALLY OPENED MAIL AND THE MISSING DOCUMENTS. PLAINTIFF REQUESTED THAT THE LEGAL DOCUMENTS, IF TAKEN OUT OF THE OPENED MAIL, BE RETURNED TO HIM AND/OR AS AN ALTERNATIVE, THAT PRISON OFFICIALS CONTACT THE U.S. MARSHAL Service TO OBTAIN A REPLACEMENT COPY OF THE USM-285 RETURN RECEIPT FORM ON DEPUTY SUPERINTENDENT, ANDERSON. IF SERVICE ON ANDERSON HAS BEEN MADE, THEN THE CLERK OF COURT HAS A COPY OF THE USM-285 FORM #1.

THEREFORE, PLAINTIFF ASSUMING THAT SERVICE HAS **been** MADE ON "ANDERSON", ALL OF THE DEFENDANTS HAVE BEEN SERVED IN THIS CIVIL ACTION.

DATED: October 30, 2006.

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FELIPE OTEZE FOWLKES, PRO SE:

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN

See Instructions for "Service of Process by the U.S. Marshal" on the reverse of this form.

PLAINTIFF

FELIPE OTEZE FOWLKES

COURT CASE NUMBER

03-11191-JLT

DEFENDANT

JOHN MARSHALL

TYPE OF PROCESS

SERVE

NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN

John MARSHALL, DIST. DEPUTY COMMISSIONER, MA - D.O.C.

ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)

AT

P.O. BOX 9125, W. CONCORD, MA 01742-9125

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:

FELIPE OTEZE FOWLKES #1084202
JOUZA-BARANOLOLI CORR CTR.
P.O. BOX 8000
SHIRLEY, MA 01764

Number of process to be served with this Form - 285

Number of parties to be served in this case

Check for service on U.S.A.

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Times Available For Service):

This is his newly discovered address. He was NOT located by your service on 8-10-06 and is hereby located to be served.

Signature of Attorney or other originator requesting service on behalf of:

☒ PLAINTIFF
☐ DEFENDANT

TELEPHONE NUMBER

DATE

10-3-06

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt of the number of process indicated (Sign only first USM 285 if more than one USM 285 is submitted)

Total Process

District of Origin

No. 2

District to Serve

No. 2

Signature of Authorized USMS Deputy or Clerk

Date

10/3/06

I hereby certify and have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)

☐ A person of suitable age and discretion then residing in the defendant's usual place of abode.

Address (complete only if different than shown above)

Date of Service Time am pm

Signature of U.S. Marshal or Deputy

Service Fee

Total Mailing Charges (including endeavors)

Forwarding Fee

Total Charges

Advance Deposits

Amount owed to U.S. Marshal or

Amount of Refund

REMARKS:

Process served by first class mail

NOTE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

JOHN MARSHAL, ASSIST. DEPUTY
COMMISSIONER MASS D. O. C.
PO BOX 9125
W. CONCORD, MA 01742-9125

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

[Signature]☒

Agent

☐ Addressee

B. Received by (Printed Name)

AGILIA

C. Date of Delivery

*10/15/04*D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

3. Service Type

☒ Certified Mail☐ Express Mail☒ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from serv)


7006 0810 0001 5815 5876

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

U.S. Department of Justice
United States Marshals Service**PROCESS RECEIPT AND RETURN**See Instructions for "Service of Process by the U.S. Marshal"
on the reverse of this form.

PLAINTIFF	FELIPE OTEZC FOLKES	COURT CASE NUMBER	05-CV-11749-JLT
DEFENDANT	TIMOTHY HALL	TYPE OF PROCESS	
SERVE	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN		
	TIMOTHY HALL, ASST. DEPUTY COMMISSIONER, MASS. D.O.C.		
AT	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)		
	INDUSTRIES DRIVE: P.O. Box 188, NORFOLK, MA 02056		

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:		Number of process to be served with this Form - 285	
FELIPE OTEZC FOLKES #081303 LAIZA-GARANDUSKI, CORR CTR. P.O. BOX 8000 Whirley, MA 01464		Number of parties to be served in this case	
		Check for service on U.S.A.	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

This is his newly discovered address. He was NOT located by your service on 8-10-06 and is hereby located to be served.

Signature of Attorney or other Originator requesting service on behalf of:	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER	DATE
Felipe Otez Folkes			10-3-06

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin	District to Serve	Signature of Authorized USMS Deputy or Clerk	Date
	1	No. 3X	No. 3X	Harry P. Lawrence	10/12/06

I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)	<input type="checkbox"/> A person of suitable age and discretion then residing in the defendant's usual place of abode.
Address (complete only if different than shown above)	Date of Service
	Time
	am
	pm
	Signature of U.S. Marshal or Deputy

Service Fee	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund

REMARKS: Process served by last Marshal at 10/12/06

NOTE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

TIMOTHY HALL, ASSIST. DEPUTY
 COMMISSIONER MASS. D. O. C.
 INDUSTRIES DRIVE
 PO BOX 188
 NORFOLK, MA 02056

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X


☒ Agent☐ Addressee

B. Received by (Printed Name)

John Santos

C. Date of Delivery

10/16/04

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☒ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service)

7006 0810 0001 5815 5791

CERTIFICATE OF SERVICE

AFFIDAVIT OF SERVICE BY MAIL

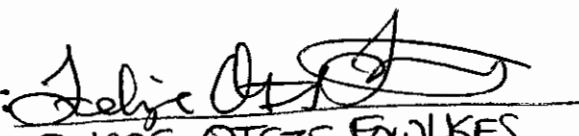
FOWLKES VS. DENNEHY, et., AL.,
CA. 05-11749-JLT

I, FELIPE OTEZE FOWLKES, being duly sworn, deposes and says:

1. I AM the PLAINTIFF, PRO SE in the above cited CIVIL ACTION. I CURRENTLY RESIDE AT SOUZA-BARANOWSKI CORR. CTR., P.O. BOX 8000, SHIRLEY, MA 01464.
2. I AM OVER the AGE OF 18.
3. ON July 31, 2006 I SERVED the within: SECOND Amended Complaint, summonses and other NECESSARY PAPERWORK required by the U.S. MARSHAL FOR SERVICE OF PROCESS ON the defendants, UPON: OFFICE OF the U.S. MARSHAL, U.S. Courthouse, CIVIL SECTION, Room 1500, 1 Courthouse Way, Boston, MA 02210, by depositing TRUE COPIES of said documents within postpaid properly addressed envelopes in the hands of duly authorized CORRECTIONAL OFFICERS AT SOUZA-BARANOWSKI CORR. CTR., to be mailed VIA U.S. Postal Services.

PURSUANT to TITLE 28 USCA SEC. 1746: "I SWEAR UNDER the PENALTY OF PERJURY that the foregoing is TRUE AND CORRECT."

EXECUTED ON: July 31, 2006.

Signature: 
FELIPE OTEZE FOWLKES

October 3, 2006

FELIPE OTEZE FOWLKES #W84202
SOUZA-BARANOWSKI CORR. CTR.
P.O. Box 8000: Shirley, MA 01464

U.S. MARSHAL Service
U.S. COURTHOUSE
ONE COURTHOUSE WAY, SUITE 500
BOSTON, MA 01464

IN Re: U.S. MARSHAL 285 FORM OF RETURN
RECEIPT OF SERVICE ON DEFENDANT
(SCOTT) ANDERSON (MR. ANDERSON) IN
"FOWLKES VS. DENNEHY, ET. AL., 05-CV-11749(JLT)"

DEAR U.S. MARSHAL'S SERVICE:

THANK YOU FOR YOUR SERVICES. I AM THE
PLAINTIFF IN "FOWLKES V. DENNEHY, ET. AL., #05-CV-
11749-JLT." I HAVE NOT RECEIVED FROM YOU
THE 285 FORM OF RETURN RECEIPT OF SERVICE
ON DEFENDANT "MR. ANDERSON" AKA SCOTT
ANDERSON. IF YOU HAVE SERVED HIM, WILL YOU
PLEASE FORWARD ME THE 285 RETURN RECEIPT
FORM OR AN ACKNOWLEDGEMENT OF THE
SERVICE UPON HIM. THANK YOU AGAIN.

WRITTEN COPY: f.o.f.
w/enc.

VERY TRULY YOURS,
Felipe Oteze Fowlkes
FELIPE OTEZE FOWLKES:

FORM "A"

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF CORRECTION
INMATE GRIEVANCE FORM

INMATE'S NAME: FELIPE FOWLKES	INMATE'S #: W84202	DATE: 10-19-06
INSTITUTION: SOUZA-BARANOWSKI		DATE OF INCIDENT: 10-19-06
INSTRUCTIONS: 1. Refer to 103 CMR 491, Inmate Grievance Policy. 2. In Block B , give a brief and understandable summary of your complaint/issue. 3. List any actions you may have taken to resolve this matter in Block C . Be sure to include the identity of staff members you have contacted. 4. Provide a Requested Remedy in Block D .		
A. When filing an Emergency Grievance select Emergency and one additional grievance type. <div style="text-align: center;">_____ EMERGENCY _____</div>		
B. Give a brief and understandable summary of your complaint/issue. Additional paper may be used, if necessary. <p>THE GRIEVANT COMPLAINS THAT ON OCT. 19, 2006, his privileged MAIL FROM THE U.S. DEPARTMENT OF JUSTICE, MARSHAL'S SERVICE, AT THE U.S. COURTHOUSE, ONE COURTHOUSE WAY, BOSTON, MA, WAS delivered OPENED AND LEGAL DOCUMENTS CONSISTING OF YELLOW COPY OF USM-285 RETURN RECEIPT FORMS OF SERVICE OF SUMMONS AND CIVIL COMPLAINT ON DEPUTY SUPERINTENDENT, SCOTT ANDERSON, WERE TAKEN FROM THE PRIVILEGED PRIVILEGED MAIL TOGETHER WITH A REPLY LETTER FROM ONE OF THE U.S. MARSHALS REGARDING SERVICE ON ANDERSON. C.O. GUILLEMETTE NOTICED THAT THE LEGAL MAIL HAD BEEN OPENED BY THE MAIL ROOM AND STAPLED AS NON-PRIVILEGED MAIL.</p> <p style="text-align: center;">← (CONTINUED ON ATTACHED PAGES) →</p>		
C. List any action taken to address/resolve this matter. Include the identity of staff members you have contacted. <p>C.O. GUILLEMETTE NOTICED THAT MY PRIVILEGED LEGAL MAIL FROM U.S. MARSHAL HAD BEEN OPENED BY THE MAIL ROOM AND STAPLED AS NON-PRIVILEGED MAIL.</p>		
D. Provide your Requested Remedy. <p style="text-align: center;">← (SEE ATTACHED PAGE) →</p>		

Inmate's Signature

Felipe Fowlkes

Date: OCT. 19, 2006.

Staff Recipient

Date:

****DENIED GRIEVANCES MAY BE APPEALED TO THE REVIEWING AUTHORITY WITHIN 10 BUSINESS DAYS.**

(Inmate receipts/responses will be generated via the Inmate Management System.)

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COMPLAINT-ISSUE, CONT.:

THE GRIEVANT STATES THAT SAID PRIVILEGED MAIL FROM THE U.S. MARSHAL'S SERVICE IS DEFINED AS PRIVILEGED MAIL PURSUANT TO 103 CMR 481.11 (1) (a) AS AN OFFICER OF A COURT OF THE UNITED STATES, AND THAT PURSUANT TO 103 CMR 481.12 SAID PRIVILEGED MAIL COULD NOT BE OPENED AND INSPECTED BEFORE DELIVERY. FURTHERMORE, GRIEVANT COMPLAINS THAT HIS 14TH AMENDMENT DUE PROCESS RIGHTS WERE VIOLATED BY THE THEFT OF LEGAL PAPERS AS WELL AS HIS FIRST AMENDMENT RIGHT OF ACCESS TO COURTS SINCE HE NEEDS THE MARSHAL'S RETURN RECEIPT DOCUMENTS TO FILE PROOF OF SERVICE ON MR. ANDERSON WITH THE U.S. DISTRICT COURT.

REQUESTED REMEDY

I AM REQUESTING REMEDY OF THE FOLLOWING THREE THINGS:

- (1) I REQUEST THAT YELLOW COPY OF THE USM-285 RETURN RECEIPT FORMS TOGETHER WITH THE CERTIFIED MAIL RETURN RECEIPT COPY OF SERVICE OF SUMMONS AND COMPLAINT ON DEPUTY SUPERINTENDENT, SCOTT ANDERSON, BY U.S. MARSHALS SERVICE, WHICH WAS TAKEN FROM MY PRIVILEGED LEGAL MAIL BE RETURNED TO ME ASAP
- (2) AND/OR AS AN ALTERNATIVE, THAT IGC CONTACT THE U.S. MARSHALS SERVICE IN BOSTON REQUESTING THAT THEY PROVIDE ME WITH A REPLACEMENT COPY OF THE USM-285 RETURN RECEIPT FORMS ON DEPUTY SUPERINTENDENT, SCOTT ANDERSON, TOGETHER WITH ANY REPLY LETTER FROM U.S. MARSHAL REGARDING THE SERVICE ON ANDERSON, IN MY PENDING CIVIL RIGHTS ACTION ENTITLED "FOWLKES VS. DENNEHY, ET. AL., CASE #05-11749-JLT."
- (3) SUCH OTHER AND FURTHER RELIEFS THAT WOULD PREVENT MY PRIVILEGED LEGAL MAIL FROM BEING DELAYED, OPENED AND INSPECTED BEFORE DELIVERY. ON ONE PRIOR OCCASION MY PRIVILEGED MAIL FROM U.S. DEPT. OF JUSTICE IN WASHINGTON, D.C. DATED OCT. 3, 2006, WAS DELAYED DELIVERY FROM MAIL ROOM UNTIL OCTOBER 16, 2006.

SIGNATURE: Felipe Fowlkes

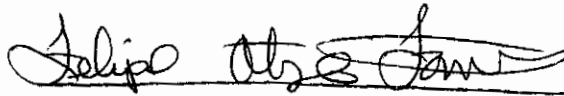
DATE: 10-19-06

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CERTIFICATE OF SERVICE

I, FELIPE OTEZE FOWLKES, PLAINTIFF, PRO SE, hereby CERTIFY that on this 30th DAY OF October 2006, I CAUSED A TRUE COPY OF THE foregoing "PROOF OF SERVICE" with SUPPORTING documents, to be SERVED on the defendants ATTORNEY, DARYL F. GLAZER, by PREPAID POSTAGED FIRST CLASS MAIL AT the LEGAL DIVISION, D.O.C. 70 FRANKLIN Street, Suite 600, BOSTON, MA 02110.

DATED: October 30, 2006.



FELIPE OTEZE FOWLKES, PRO SE
#W84202: SBCC: P.O. Box 8000
Shirley, MA 01464